IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 739 of 1999

Between:

C.S. Prakash, S/o Narsimhappa,
R/o Vijayanagar Colony, Ananthapur.

..... PETITIONER

AND

1. The Chairman & Presiding Officer

Industrial Tribunal-cum-Labour Court
Ananthapur
2. The Depot Manager A.P.S.R.T.Corporation
Hindupur Depot, Hindupur, Ananthapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of writ of certiorari or any other appropriate writ, declaring the award passed in I.D.No.86/95 as illegal and arbitrary after calling the records from the Industrial Tribunal-cum-Labour Court, Ananthapur and set aside the same in so far as not granting no relief to the petitioner; and consequently direct the respondent to fix the seniority of the petitioner while taking into consideration the period from 2-2-1981.

Counsel for the Petitioner: MR.P.SUDHEER RAO

Counsel for the Respondent No.1 : G.P. for Labour

Counsel for the Respondent No.2: K.Vinayaka Swamy

The Court made the following:

ORDER:

This writ petition is filed by the workman being aggrieved by the Award passed in I.D.No.86 of 1995 dated 29-8-1998 on the file of Industrial Tribunal-Cum-Labour Court at Ananthapur.

The petitioner raised a dispute as to fixing of his seniority below one K.M.Murty. According to the petitioner, he is senior to the said K.M. Murthy and his name ought to have shown over and above K.M.Murthy. On reporting failure of the conciliation and referring the matter to the Government, the Government in turn referred the matter for adjudication before the Industrial Tribunal-Cum-Labour Court at Ananthapur for resolving the following issues.

> "1.Whether the Depot Manager, APSRTC, Hindupur is justified in fixing the seniority of Sri C.S.Prakash,Conductor, E.No.96532 with effect from 18-1-1992 placing his junior Sri K.M.Murthy,conductor, above him.
>
> 2. If not, what relief is the workman entitled to ?"

Before the labour court, in support of his claim, the petitioner examined himself as WW.1. None was examined for the management and on behalf of the workman Exs.W.1 to W.3 were marked. After a detailed consideration of the entire matter, the Labour Court came to the conclusion that the petitioner-workman was retrenched as per the conditions of his appointment and there was no continuity of service when he was reengaged . Whereas in case of Mr.Ram Murthy though he was junior to him, his services were terminated, he raised some dispute and he was reinstated with continuity of service.Thus,there was no gap in service sofar as Mr.Murthy is concerned. Therefore, he was shown above the petitioner in the seniority list. Thus the claim of the petitioner is only futile one, as such, dismissed the I.D.

I have given earnest consideration to the respective submissions made by counsel on either side and perused the Award passed in I.D.No.86 of 1995 dated 29th August,1998 and other material made available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error requiring interference by this Court into the award passed by it. It is an admitted fact that the petitioner was appointed as Conductor with effect from 2-2-1981 along with some other workers under special employment scheme, but the services of the petitioner were retrenched with effect from 26-9-1981 along with others. Whereas the respondent has appointed some other batch of conductors vide proceedings dated 25-2-1981, who are juniors to the petitioner. In case of one Ram Murthy, Conductor, he was appointed subsequent to the petitioner, but without any break in service. Whereas the petitioner was not given continuity of service though he was appointed little earlier to P.Ram Murthy. Under those circumstances, at this length of time, the petitioner raising the dispute and claiming seniority over and above the said Ram Murthy is nothing but a futile exercise and the same is imaginary and speculative. Therefore, the Award of the labour court rejecting the case of the petitioner cannot be said to be arbitrary and illegal and does not call for any interference at the hands of this Court under Article 226 of the Constitution of India.

Therefore, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU,J

24-06-2005

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To:

1. The Chairman & Presiding Officer

Industrial Tribunal-cum-Labour Court
Ananthapur
2. The Depot Manager A.P.S.R.T.Corporation
Hindupur Depot, Hindupur, Ananthapur District.

3 Two CCs to G.P. for Labour,High Court Buildings, Hyderabad.(OUT).

4. Two CD copies